

New Mexico Revision
December, 1993

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: New Mexico

TRANSFER OF RESOURCES

1917 of the
Act

The agency provides for the denial of eligibility by reason of disposal of resources for less than fair market value.

Section 303(b)
of P.L. 100-360

A. The criteria for determining the period of ineligibility are:

1. Effective July 1, 1988 (except for interspousal transfers), no period of ineligibility will be imposed on an individual for uncompensated transfers unless the individual is an inpatient of a medical institution or nursing facility who transferred resources without compensation 30 months prior to institutionalization, if a Medicaid recipient at the beginning of institutionalization, or 30 months prior to application, if not Medicaid eligible at the beginning of institutionalization.

a. The agency uses a procedure which provides for a period of ineligibility that will be the lesser of:

i. 30 months, or

ii. A number of months equal to the uncompensated value of the transferred resources divided by the average cost to a private patient of nursing facility services in the state. Any remainder from the division will be disregarded.

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TN No. 87-13

STATE	<u>New Mexico</u>	A
DATE REC'D	<u>1-8-94</u>	
DATE APFVD	<u>1-25-94</u>	
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HCFA 179	<u>93-23</u>	

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b. No individual is ineligible by reasons of A.1. if:

i. The resource transferred was a home, and title to the home was transferred to:

(a) a child of the institutionalized individual who is under age 21 or who is blind or disabled (as determined by SSI);

(b) a son or daughter of the institutionalized individual who resided in the home for at least two years before the applicant was admitted to the medical institution or nursing facility, and who provided care which enabled the institutionalized individual to remain at home during that period; or

(c) a sibling of the institutionalized individual who has an equity interest in the home and was residing in the home for at least one year before the applicant was admitted to the medical institution or nursing facility.

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STATE	<u>New Mexico</u>	A
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- ii. A satisfactory showing is made that the individual intended to dispose of the resources at fair market value or for other valuable consideration, or that the resources were transferred exclusively for a purpose other than to qualify for medical assistance.
- iii. It is determined that denial of eligibility would work an undue hardship. Undue hardship exists if each condition below is met:
 - (a) The transfer was made to someone other than a family member.
 - (b) The applicant can present convincing evidence that every effort was made to recover the transferred resource; and
 - (c) It is verified that the applicant is unable to obtain care in any long-term care facility in the state without Medicaid coverage including state-run facilities.

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STATE	<u>New Mexico</u>	A
DATE REC'D	<u>1-3-94</u>	
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Section 13611

P.L. 101-66

dated August 10, 1993

2. Effective October 1, 1993, the transfer of asset provisions are in accordance with OBRA 93 as follows:
- a. The lookback period will be 36 months (or 60 months in the case of transfers to trusts);
 - b. There will be no cap on the period of ineligibility;
 - c. There will be no overlapping of periods of ineligibility;
 - d. The total value of all assets transferred will be divided by the average cost to a private patient of nursing facility services in the state to determine the number of months of ineligibility.
 - e. The exceptions to the period of ineligibility will be applied in accordance with Section 13611 of Public Law 101-66 dated August 10, 1993.

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STATE	<u>New Mexico</u>	A
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FEBRUARY 1985

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No individual is ineligible by reason of item
A.2 if--

- i. A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual can reasonably be expected to be discharged from the medical institution and to return to that home;
- ii. Title to the home was transferred to the individual's spouse or child who is under age 21, or (for States eligible to participate in the State program under title XVI of the Social Security Act) is blind or permanently and totally disabled or (for States not eligible to participate in the State program under title XVI of the Social Security Act) is blind or disabled as defined in section 1614 of the Act;
- iii. A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual intended to dispose of the home either at fair market value or for other valuable consideration; or
- iv. The agency determines that denial of eligibility would work an undue hardship.

STATE	<u>NM</u>	A
DATE REC'D	<u>DEC 31 1985</u>	
DATE APP'VD	<u>JAN 30 1986</u>	
DATE EFF	<u>OCT 1 1985</u>	
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3. 1902(f) States

☒ Under the provisions of section 1902(f) of the Social Security Act, the following transfer of resource criteria more restrictive than those established under section 1917(c) of the Act, apply:

B. Other than those procedures specified elsewhere in the supplement, the procedures for implementing denial of eligibility by reason of disposal of resources for less than fair market value are as follows:

1. If the uncompensated value of the transfer is \$12,000 or less:

Specified elsewhere

2. If the uncompensated value of the transfer is more than \$12,000:

Specified elsewhere

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3. If the agency sets a period of ineligibility of less than 24 months and applies it to all transfers of resources (regardless of uncompensated value):

4. Other procedures:

If the resource could have been excluded at the time of transfer, then it is not considered to be a transfer affecting eligibility.

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DATE REC'D <u>DEC 31 1985</u>	
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